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DEPARTMENT OF STATE

Washington D C 20520

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January 27, 1977

OFFICIAL-INFORMAL

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Honorable Robert C. Hill
American Ambassador
Buenos Aires

Dear Mr. Ambassador:

On January 26 I met with Christopher Roper of "Latin America Political Report" for about an hour. We got off to a good start because of mutual friends in Peru.

I praised Roper's report but said he was really off the mark when he wrote that you had submitted a very damaging report on the human rights situation in Argentina. I explained how the human rights report was prepared and noted that the declassified version was 99% complete. I know, he said, I read the declassified report. He admitted that one of his Washington sources was unreliable; an almost certain reference to Larry Birns.

Roper said that he had just spent a week in Argentina. (He was Reuters correspondent there during Ongania). He sees no difference between Martinez de Hoz and Krieger Vasena. He said he was struck by the unpopularity of the Videla Government, saying the government was in worse trouble today than when Krieger intervened the unions in 1967.

He took the USG to task for supporting the Videla Government with (private bank) loans. He was insistent that an institutional way could have been found to replace Isabel Peron, but the military were intent on taking power.

Roper emphasized Argentina's differences with the rest of Latin America, saying Argentina could more

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easily be compared to Italy. He does not think military rule can last because the Argentines are too politicized. There are no inert majorities as in Brazil or Peru. Thirty years of Argentine history show that hard-line military solutions won't work in Argentina.

From a U.S. policy point of view, Roper feels that we must encourage Argentina's civilian forces. He believes U.S. military assistance should be suspended quietly until elections are scheduled. He fears that Congressional hearings followed by a cutoff would excite Argentine nationalism. Instead, he suggests telling the military that we are discontinuing military assistance to prevent more abrupt Congressional action. The civilians (los civilistas) would take a quiet cutoff as a meaningful gesture of support. (Roper, of course, seems to feel we should also vote negatively in development banks but we did not explore this.)

He disagreed that the Montoneros were losing. He said the Montoneros expect that they will suffer 2,000 deaths in the year ending March 1977. Their leadership is not being destroyed, however, and their popular support is rising. He considers the Montoneros to be nationalists who will not do the bidding of any foreign power. Furthermore, Roper discounts the possibility of a military-Montonero deal because the Montoneros pose an inherent (competitive) threat to the military institution. On the contrary, the military might easily form an alliance with the Communists, along the lines of Peru's Velasco regime. Before any turn to the left, Roper sees a hardening to the right.

Roper does not appear to think it makes much difference whether Videla or a tougher general rules. He maintains that military rule in Argentina is repressive and will not last. It is, therefore, in the United States' interest to side with the civilian side, even if it is not clear what kind of civilian rule will emerge.

He also criticized Argentina's landed classes who refuse to learn the lessons of the past. They are

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currently being favored and they are taking advantage of the situation to send more money abroad.

Much of the foregoing sounds simplistic, of course, but we had a rambling conversation.

I also wanted to mention that I briefed about 60 Argentine exchange students on the 25th. They were an attractive, high-school-age group. Their questions ranged from U.S. support for the Argentine military to Gary Gilmore's execution and the American family. I told them that we wanted to cooperate with Argentina in the field of external defense but stay away from problems of internal security. They asked how I would defeat terrorism. I admitted I did not know but the detention of relatives, lawyers and others who are not terrorists is unjustifiable. Most of the students seemed to agree that the military have gone too far in trying to impose order, although this was left unsaid. I commented that in some respects it was harder to be President of Argentina than President of the United States because of the former's direct responsibility for the lives of his countrymen. Overall, of course, I tried to show understanding and my desire for good relations. This was hard to do under the current circumstances, and the students knew it.

In other meetings with Argentines, you will be interested in knowing that Charlie Bray and Joe Grunwald met separately with former Economy Minister Cafiero. Unfortunately, I was unable to join Charlie's conversation due to a schedule conflict, but Cafiero should have been pleased with his sixth floor talks.

One favor: Roper recommended three books on Argentina, which I would appreciate if available easily. They are Andrew Graham Yool's Tiempo de Violencia 1966-70 and Tiempo de Tragedia 1970-73, as well as Rodolfo Terragno's De Campora a Peron. I'll be glad to send a personal check for these books if they can be purchased for me. Roper felt it might be difficult to find the Yool books.

And my thanks for the Embassy's candid cable on religious persecution. It is obvious that you have close contact with Jewish leaders. Your reply was distributed by OCT to NSC, DOD, CIA, FBI, Treasury and throughout this

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this building. As I have written before, human rights subjects are receiving wide readership. And in that connection, I wonder if it would be possible to increase the frequency of the Embassy's human rights roundup which is avidly read.

Last but not least, Littleton was on the tube. NBC interviewed a draft evader who had been amnestied and returned to Littleton. It looked cold there.

My very best.

Sincerely,



Fernando E. Rondon

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DEPARTMENT OF STATE

Washington D.C. 20520

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January 27, 1977

OFFICIAL-INFORMAL

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Honorable Robert C. Hill
American Ambassador
Buenos Aires

Dear Mr. Ambassador:

This is a further report on our meetings with people interested in Argentina.

As we had informed you earlier, on January 27 Acting Assistant Secretary Luers hosted a Philadelphia group of Jewish and Catholic laymen as well as a Monsignor Devlin representing the Cardinal. They were primarily interested in religious persecution but left, I think, with an awareness that the problem is one of human rights in general and not one of religious persecution. I also believe they came away with a feeling for the complexities in deciding how to work for human rights improvements. We explained that military sales have essentially symbolic importance and little if any impact on terrorism. So long as Argentina seeks to avoid international opprobrium (which might come with an FMS cutoff), there is at least an incentive for human rights moderation. We did not mince over words, however, on the grim human rights picture with vivid examples of left and right wing terror.

We read excerpts of BA's 0607 to them which demonstrated that our Embassy is watching the Church/Jewish problem closely.

They intend to issue a statement that they were received by Mr. Luers and briefed on human rights problems. I think they will say that we appeared to be well informed (thanks to you) and sensitive to the issues. The group wants to follow up by a possible call on Ambassador Aja Espil, possible contacts with Congress, and an invitation to ARA to discuss human rights with their constituent groups in Philadelphia.

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Also on January 27, I met with Morton Rosenbloom of AP who had unusual praise for you and Wayne Smith. Rosenbloom is doing pieces on human rights for Foreign Affairs and Harpers, and writing a book for the Council on Foreign Relations. We had a long talk. Inter alia, he worried about double standards in human rights (Argentina si and Iran no) and the unpredictable consequences of unilateral actions, such as a military aid cutoff. He was supposed to meet with John Salzberg and will undoubtedly paint a lurid picture of Argentina for John (people thrown out of helicopters) but counsel caution in terms of sanctions.

Tomorrow I will be meeting with Monica Mignone's father. I learned he was in town and asked to see him.

My very best.

Sincerely,



Fernando E. Rondon

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Buenos Aires, Argentina
January 24, 1977

OFFICIAL-INFORMAL

Robert W. Zimmermann, Esquire
Director, ARA/ECA Room 4906
Department of State
Washington, D. C. 20520

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Your letter of January 6 prompted us to review our thinking once again about what we might do to improve respect for human rights in Argentina. Our essential point of departure was to ask ourselves whether our past efforts had had any effect in improving the situation and whether future efforts had any chance of success. Not surprisingly, in view of the frustrations our efforts frequently encounter, there were some initial expressions of skepticism. After more thoughtful consideration, however, we (that is, the reduced Country Team--POL, ☐ DAO and MILGP) reached the unanimous conclusion that our efforts to date have had some major success, that lives have been saved and people freed. All American prisoners have been released. Father Weeks is alive; he might not be had it not been for the UEG's approaches on his behalf. Patricia Erb and Gwenda Mae Loken are free and might not be had we not had some influence with the GOA (ref my discussions with President Videla). Argentines, too, have been saved. I am convinced Elida Messina might not have seen the light of day had it not been for our prompt representations to the GOA. The Tieffenbergs, both father and son, are free, they might still be in jail had it not been for the UEG's interest in their case. And these are only a few examples. Further, if we have had some success in the past, there is no reason to think we cannot have influence on the situation in the future. Certainly we have a responsibility to try.

Having concluded that we can and should continue our efforts in the human rights field, we shortly came up against the issue of confrontation. We were of one mind--and I think Charles Bray shares

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this view--that confrontation with the GOA will not serve our objectives. Indeed, it is one of the things which could bring about the replacement of Videla by those who do not share his good intentions in the human rights field. There is an ample area of operation short of confrontation, so eliminating it as a viable option at this time by no means leaves us helpless.

We also felt strongly that with the inauguration of a new administration, we have a major opportunity to make new and perhaps more effective approaches about human rights. We suspect that there is a convergence of factors which may be particularly favorable: the new administration in the U. S., the major progress which the GOA is having in dealing with the terrorists and the indications that it may be starting to clean up its countersubversive operations (e.g., the publication of lists of those detained and released which, while probably not complete, at least represents a step in the right direction).

In getting to the questions posed in your letter, we appreciate and are in agreement with the thinking behind honing down the list of possible requests to the four outlined in Attachment 5. We believe they are reasonable and worth working for. All are things that we have at one time or another urged upon the GOA; we should continue to do so. We do not think, however, that we should limit future demarches to these four points. What we are really after is a Rule of Law--which would subsume all four points. The latter are worthwhile intermediate goals and in presenting our case for Rule of Law we can refer to them as examples (but only that) of things the GOA might do.

With respect to the resources listed in Attachment 7, it seems to us they fall into three categories:

- (a) Those that might be described as our primary resources. Under this category we would put 3, 4, 5, 10, 12, 18, 19 and 28.
- (b) Those that should be discarded, either because they are impractical or because they would lead immediately to confrontation. It seems to us that 2, 9, 29 and 30 belong in this category.
- (c) Those that may have some impact and are worth bearing in mind, but which are passive in nature (such as No. 1) are likely to be useful only on special occasions (such

as No. 17), are of secondary importance (such as No. 13), or simply do not lend themselves to manipulation (such as No. 26). In this category we would place all those resources not listed under (a) or (b).

Beyond question, our most important asset is Argentina's intense interest in and need for continued access to private capital markets. They are, of course, also very much interested in EXIMBANK and IDB financing, but even here their primary concern over a negative U. S. vote in those entities is the possible psychological impact that might have on the private money market in the U. S. Representatives of the U. S. Chamber of Commerce and Council of the Americas, therefore, might play a very useful role in bringing home to the GOA that there is a relationship between their record on human rights and assured access to the private capital markets.

Having said that we do not believe confrontation to be the indicated course, listing access to private capital as a major resource may seem a contradiction; after all, if we closed off that access we would have a confrontation. On the other hand, the possibility that the GOA might lose that access at some point further down the road unless it improves its human rights record is probably its best incentive to improve it. They are not likely to behave better simply because we want them to; they must see that their interests are involved. The U. S. Congress can play a very useful role in this and is therefore also listed as a primary resource. We in the Executive Branch should not threaten the GOA with blocking its access to the private banks; rather, we should continue simply to point to the legislation that is on the books and to state matter-of-factly that the Congress will be reviewing the situation periodically and that if Argentina's record does not improve there is a live possibility of negative action which could have a negative impact on Argentina's chances of securing the financing it needs from private banks. Hopefully, without ever reaching the point of public condemnations and sanctions, which we do not believe would be effective, the Congress can thus be something of the stick to our carrot.

We listed FMS and grant military training under category (b), by the way, not because the Argentines do not value those items. On the contrary, the Argentines do regard them as important, but they are not something they cannot do without (as is private financing); hence, threats to cut off military aid if the GOA does not behave itself in the human rights field are likely to be empty and therefore ineffective. The end-all result would be simply to anger the Argentines and cause them to dig their heels in. Our recommendation would be that we continue

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to explain the legislation to them so that they know there is a possibility of losing FMS and grant training, but that we not try to use it as a threat to hold over their heads. Past the point of making them cognizant of the realities of the situation, probably the less said about it the better. In response to advocates of cutting off military aid, we should point out that grant training has been cut once--in 1974, because of Section 620 (a) (3)--with no effect whatsoever.

As to orchestration of our presentation, the idea of a special emissary strikes us as an excellent one--provided someone of sufficient stature can be persuaded to come. Ellsworth Bunker comes to mind. He is still highly regarded here although he served as Ambassador 25 years ago (1951-52). David Rockefeller, as a representative of the money market which is so important to the Argentines, is another name that suggests itself, as is that of General Walters. You will doubtless be able to think of others.

It probably goes without saying that the new Assistant Secretary of State for Latin American Affairs might well call in the Argentine Ambassador as soon as possible to emphasize to him the new administration's concern for the human rights issue. The Embassy could then follow up with a demarche here at a very high level. In making these approaches, we believe the best way to get our message across to the Argentines is to be direct and plain-speaking. The fact of the matter is that USG has been disposed to help them, but cannot overlook human rights practices that do not meet international norms. We felt that Charles Bray's formula for setting forth the problem was a very good one. It conveyed the message without eliciting a hostile reaction; it did not have a confrontational dimension.

Lastly, those members of the Country Team who were involved in reviewing our posture on the human rights question were all agreed that each USG agency should continue to do what it could to advance the cause.

While not referred to in your letter, another step we might take--one which we raised last July (see Buenos Aires 4307) and which we understand is being mulled over in Congress-- is for the State Department to initiate discussions on opening a parole program for Argentine citizens as was done in Chile for Chilean citizens. The fact that such a program was even being considered by our Executive Branch and Congress would be a clear indication (1) that the U. S. believes Argentine political dissidents (not Communists or terrorists, since it is well known they would not be admissible into the U. S.) are in danger of

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persecution or worse from their own government, and (2) that we are as concerned about repression in Argentina as we were in Chile. A parole program for Argentines would put real meaning behind Basic Point No. 5, in which we would encourage GOA to permit persons not charged to leave the country voluntarily. As it is now, it would be almost impossible for an Argentine political prisoner to acquire a U. S. visa. We understand Congressmen Koch, Fraser and others are considering expanding the parole program to include Argentines and it might be useful for the Department to demonstrate its support for the idea at an early stage.

Sincerely,

Robert C. Hill
Ambassador

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POL:WSSmith:mg

Cleared:
POL/R:DLSmock *1/2/68*
DAO:ColPACoughlin *pac*
MILGP:ColRWTart *RWT*

DCM:MChaplin *me*

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DEPARTMENT OF STATE

Washington D C 20520

January 6, 1977

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Honorable Robert C. Hill
American Ambassador
American Embassy
Buenos Aires

Dear Mr. Ambassador:

This letter reflects several hours of discussion about the Argentine human rights situation and what might be done to induce constructive change. Charlie Bray asked that we share our thoughts with you and solicit your comments.

Upon Charlie's return from Argentina, there was a great deal of non-ARA interest in his findings, particularly from the human rights/legal/Congressional side. Charlie, therefore, scheduled an in-house debriefing, which was held on December 17. He sought to convey a feeling for Argentine complexities. Everyone emerged with a better understanding of Argentina and a desire to somehow get the Argentines to make human rights improvements so that we could continue beneficial relationships. The upshot of the meeting was a second one where everyone contributed thoughts to what might be done without reference to feasibility. That list is Attachment 1. Item 9 of the list refers to Article 3 of the Geneva Convention of 1949 (Attachment 2).

Charlie Bray next tasked Jim Buchanan and Fred Rondon with reordering the list to reflect what the Argentines might accept while Charlie Runyon and Faye Armstrong of L assigned priorities to measures the United States would like to see taken. Attachment 3 ranks the human rights steps in order of presumed acceptability to the GOA (left column) and in order of desirability on human rights grounds (right column). Faye Armstrong prepared a graphic comparison of the rankings, which is Attachment 4.

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We discussed these rankings at another meeting and agreed that there would be a certain amount of USG-GOA coverage if items 11, 12, 14, 15 and 16 were eliminated because they are too general. Charlie Bray asked Charlie Runyon, Jim Buchanan and Faye Armstrong to rephrase the desired human rights steps, concentrating on what we felt might be attainable (Attachment 5), while Fred Rondon was asked to match our desired human rights steps to Argentine actions already taken under each step (Attachment 6).

Our most recent meeting took place on January 4. We agreed that the four requests (Attachment 5) were reasonable and worth working toward. We further agreed that all USG agencies (DOD, USIA) should do what they can to promote these goals. Naturally, the view from State may not reflect the Argentine panorama as seen by you and before we go the inter-agency route, we would, of course, want your reaction.

As I hope is evident, we have worked hard to try to come up with a consensus between ARA/EB/DHA/H/INR/L on what we would strive for in order to protect our other interests in Argentina by seeking improvement in human rights. But we now need your urgent and candid judgment. Our exercise has been an in-house affair so far to avoid divisiveness and promote frankness.

A key question will involve tactics. If you agree that Attachment 5 is attainable, how do we present it to the GOA, what are our resources? Attachment 7 reflects a list of material and moral resources that might be used to influence Argentina. At this point the list simply consists of topics for consideration. The point of this letter is to elicit your best thinking on how we might orchestrate those resources.

We know that we have a very difficult task ahead on this end as well. Charlie Bray got a taste of this at a two hour breakfast with Congressman Fraser last week. Charlie reviewed his Argentine trip in detail. Fraser concluded (not unlike Drinan) that we should have as little to do as possible with the Argentine government, sort of standing in the wings ready to reengage when the GOA sorts itself out. Fraser does not advocate a severance in relations and

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would not necessarily confront the GOA as we disengage, but he has little faith that we can influence the Argentine situation for the better. His is a respectable position, and Charlie acknowledged that it was a real option. Charlie pointed out that if our primary concern is helping Argentines affected by the current situation, we should at least consider taking 6-9 months to try to improve the situation before adopting Fraser's option. Fraser is skeptical.

We leave it to your discretion with whom you wish to share this letter in the mission. Not only are we anxious to induce GOA improvements, but we want to ensure that all USG agencies work toward that goal, and this kind of orchestration may be the most difficult task of all.

We'll look forward to your thoughts. With all best wishes,

Sincerely,


Robert W. Zimmermann

Attachments:

1. Desired human rights steps.
2. Article 3 of the Geneva Convention of 1949.
3. Human rights steps ranked in order to acceptability to GOA and desirability from human rights point of view.
4. Comparison of rankings.
5. Basic requests for human rights improvement.
6. Desired human rights improvements and GOA actions in that field.
7. List of material and moral resources.

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Steps we might propose that the GOA take to improve the human rights situation in Argentina (roughly in order brought up at meeting):

1. Publish at once a list of all held in detention by security forces;

2. Reinstitute humane and long-respected procedures, that is, regularized detention proceedings by which each person would be inscribed at the point of detention, families would be notified promptly and charges would promptly and publicly be laid;

3. Reestablish the jurisdiction of civilian courts over the detention process, including their duty to entertain application for and in appropriate cases grant relief in the nature of habeas corpus or amparo;

4. Give all prisoners access to their families and lawyers; end the practice of holding persons incommunicado;

5. Release all detainees who are not promptly charged;

6. Provide for public (not secret) trials in security cases, with all guarantees necessary for defense; trials should be before civilian courts except in cases of infraction of military codes by military personnel;

7. Promptly and thoroughly investigate under immediate supervision of personnel not themselves responsible for detentions or prisons all reports of abuse of prisoners and try persons apparently guilty and punish those found guilty;

8. Invite the ICRC and IAHRC to Argentina;

9. Recognize as relevant minimum standards of conduct Common Article 3 of the Geneva Conventions of 1949, which applies to internal conflict;

10. Permit detainees who so desire to seek and enjoy asylum abroad;

11. Ensure that no foreign nationals are forcibly repatriated when they have a well founded fear of being persecuted at home for reasons of race, religion, nationality, membership of a particular social group or political opinion;

12. Stop harassment of judges and of lawyers representing unpopular clients, especially criminal defendants;

13. Seek out and punish both right- and left-wing extremists who have violated the law;

14. Stop harassment of foreign residents;

15. Stop harassment of Catholic Church, Jews;

16. Stop harassment of members of the academic community;

17. Regularize police jurisdictions so that outsiders and Argentines will know where to go for help.

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War, have agreed as follows

PART I

GENERAL PROVISIONS

ARTICLE 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

ARTICLE 2

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power if the latter accepts and applies the provisions thereof.

ARTICLE 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties each Party to the conflict shall be bound to apply, as a minimum, the following provisions

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

Les soussignés, Plénipotentiaires des Gouvernements représentés à la Conférence diplomatique qui s'est réunie à Genève du 21 avril au 12 août 1949 en vue de réviser la Convention conclue à Genève le 27 juillet 1929 et relative au traitement des prisonniers de guerre, sont convenus de ce qui suit

TITRE I

DISPOSITIONS GÉNÉRALES

ARTICLE 1

Les Hautes Parties contractantes s'engagent à respecter et à faire respecter la présente Convention en toutes circonstances.

ARTICLE 2

En dehors des dispositions qui doivent entrer en vigueur dès le temps de paix, la présente Convention s'appliquera en cas de guerre déclarée ou de tout autre conflit armé surgissant entre deux ou plusieurs des Hautes Parties contractantes même si l'état de guerre n'est pas reconnu par l'une d'elles.

La Convention s'appliquera également dans tous les cas d'occupation de tout ou partie du territoire d'une Haute Partie contractante, même si cette occupation ne rencontre aucune résistance militaire.

Si l'une des Puissances en conflit n'est pas partie à la présente Convention, les Puissances parties à celle-ci resteront néanmoins liées par elle dans leurs rapports réciproques. Elles seront liées en outre par la Convention envers ladite Puissance, si celle-ci en accepte et en applique les dispositions.

ARTICLE 3

En cas de conflit armé ne présentant pas un caractère international et surgissant sur le territoire de l'une des Hautes Parties contractantes, chacune des Parties au conflit sera tenue d'appliquer au moins les dispositions suivantes

- 1) Les personnes qui ne participent pas directement aux hostilités, y compris les membres de forces armées qui ont déposé les armes et les personnes qui ont été mises hors de combat par maladie, blessure, détention, ou pour toute autre cause, seront en toutes circonstances, traitées avec humanité, sans aucune distinction de caractère défavorable basée sur la race, la couleur, la religion ou la croyance, le sexe, la naissance ou la fortune, ou tout autre critère analogue.

A cet effet, sont et demeurent prohibés, en tout temps et en tout lieu, à l'égard des personnes mentionnées ci-dessus

- (a) violence to life and person, the preservation of all kinds, including cruel treatment and torture,
 - (b) taking of hostages,
 - (c) outrages upon personal dignity, in particular, humiliating and degrading treatment,
 - (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples;
 - (e) ~~the~~ wounded and sick shall be collected and cared for.
- An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.
- The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.
- The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

ARTICLE 4

- A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy
- (1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces
 - (2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements fulfil the following conditions
 - (a) that of being commanded by a person responsible for his subordinates,
 - (b) that of having a fixed distinctive sign recognizable at a distance,
 - (c) that of carrying arms openly,
 - (d) that of conducting their operations in accordance with the laws and customs of war
 - (3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power
 - (4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors members of labour units or of services responsible for the welfare of the armed forces provided that they have received authorization from the armed forces which they accompany who shall provide them for that purpose with an identity card similar to the annexed model

- a) les atteintes portées à la vie et à l'intégrité corporelle, notamment la meurtre sous toutes ses formes, les mutilations, les traitements cruels, tortures et supplices,
 - b) les prises d'otages,
 - c) les atteintes à la dignité des personnes, notamment les traitements humiliants et dégradants,
 - d) les condamnations prononcées et les exécutions effectuées sans un jugement préalable, rendu par un tribunal régulièrement constitué, assorti des garanties judiciaires reconnues comme indispensables par les peuples civilisés.
 - e) Les blessés et malades seront recueillis et soignés
- Un organisme humanitaire impartial, tel que le Comité international de la Croix-Rouge, pourra offrir ses services aux Parties au conflit.
- Les Parties au conflit s'efforceront, d'autre part, de mettre en vigueur par voie d'accords spéciaux tout ou partie des autres dispositions de la présente Convention.
- L'application des dispositions qui précèdent n'aura pas d'effet sur le statut juridique des Parties au conflit

ARTICLE 4

- A. Sont prisonniers de guerre, au sens de la présente Convention, les personnes qui, appartenant à l'une des catégories suivantes, sont tombées au pouvoir de l'ennemi
- x) les membres des forces armées d'une Partie au conflit, de même que les membres des milices et des corps de volontaires faisant partie de ces forces armées,
 - y) les membres des autres milices et les membres des autres corps de volontaires, y compris ceux des mouvements de résistance organisés, appartenant à une Partie au conflit et agissant en dehors ou à l'intérieur de leur propre territoire, même si ce territoire est occupé, pourvu que ces milices ou corps de volontaires, y compris ces mouvements de résistance organisés, remplissent les conditions suivantes
 - a) d'avoir à leur tête une personne responsable pour ses subordonnés,
 - b) d'avoir un signe distinctif fixe et reconnaissable à distance,
 - c) de porter ouvertement les armes,
 - d) de se conformer, dans leurs opérations, aux lois et coutumes de la guerre,
 - 3) les membres des forces armées régulières qui se réclament d'un gouvernement ou d'une autorité non reconnus par la Puissance détentrice,
 - 4) les personnes qui suivent les forces armées sans en faire directement partie, telles que les membres civils d'équipages d'avions militaires correspondants de guerre, fournisseurs, membres d'unités de travail ou de services chargés du bien-être des forces armées, à condition qu'elles en aient reçu l'autorisation des forces armées qu'elles accompagnent, celles-ci étant tenues de leur délivrer à cet effet une carte d'identité semblable au modèle annexé.

ATTACHMENT 3

December 27, 1976

Steps we might propose that the GOA take to improve the human rights situation in Argentina (roughly in order brought up at meeting):

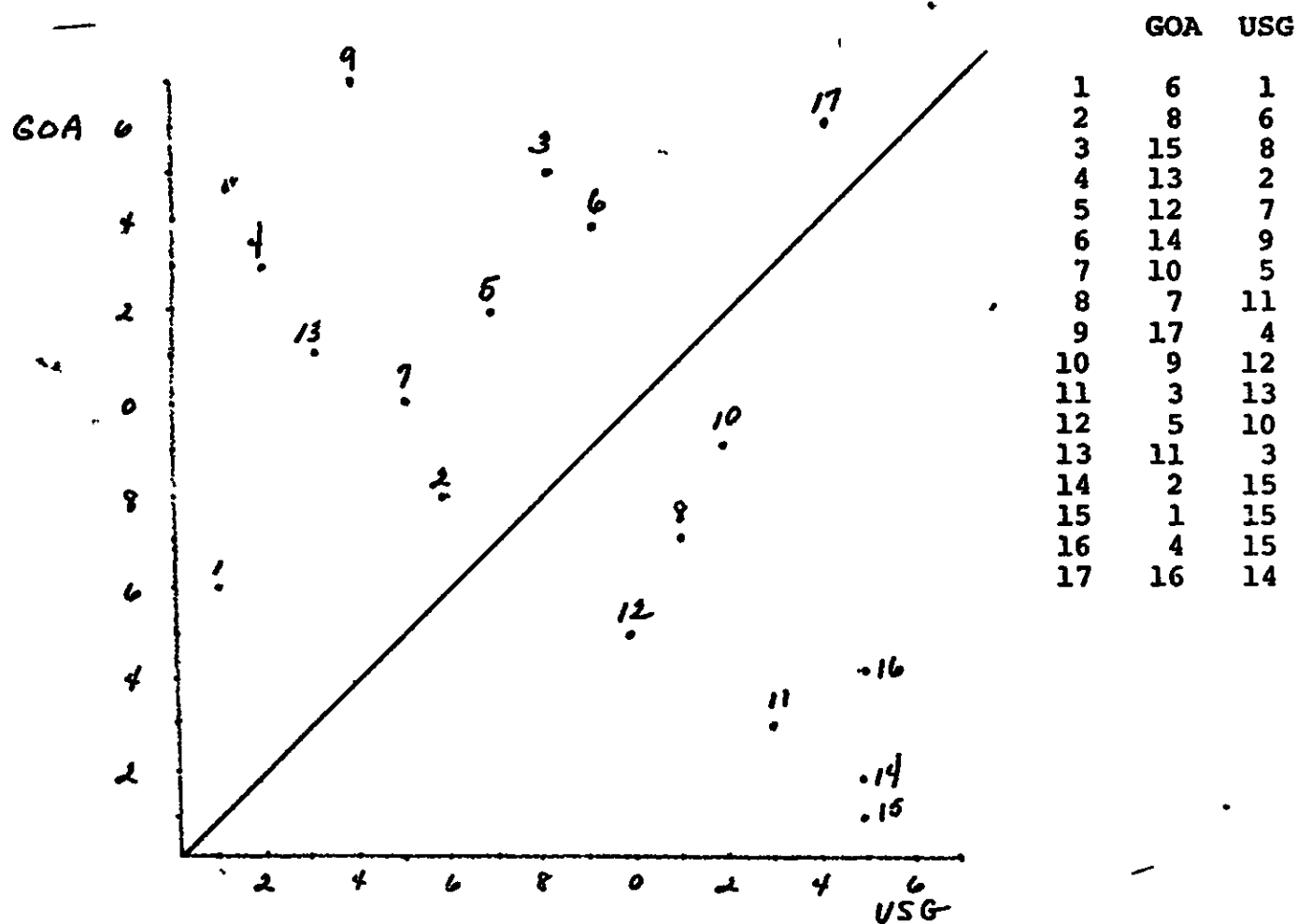
ACCEPTABILITY
TO GOA

HUMAN RIGHTS
DESIRABILITY

- | | | |
|----|---|----|
| 6 | 1. Publish at once a list of all held in detention. | 1 |
| 8 | 2. Reestablish humane and long-respected procedures, that is, regularized detention proceedings by which each person would be inscribed at the point of detention, families would be notified promptly and charges would promptly and publicly be laid; | 6 |
| 15 | 3. Reestablish the jurisdiction of civilian courts over the detention process, including their duty to entertain application for and in appropriate cases grant relief in the nature of <u>habeas corpus</u> or <u>amparo</u> ; | 8 |
| 13 | 4. Give all prisoners access to their families and lawyers; end the practice of holding persons incommunicado; | 2 |
| 12 | 5. Release all detainees who are not promptly charged; | 7 |
| 14 | 6. Provide for public (not secret) trials in security cases, with all guarantees necessary for defense; trials should be before civilian courts except in cases of infraction of military codes by military personnel; | 9 |
| 10 | 7. Promptly and thoroughly investigate under immediate supervision of personnel not themselves responsible for detentions or prisons all reports of abuse of prisoners and try persons apparently guilty and punish those found guilty; | 5 |
| 7 | 8. Invite the ICRC and IAHRC to Argentina; | 11 |

17	9. Recognize as relevant minimum standards of conduct Common Article 3 of the Geneva Convention of 1949, which applies to internal conflict;	4
9	10. Permit detainees who so desire to seek and enjoy asylum abroad;	12
3	11. Ensure that no foreign nationals are forcibly repatriated when they have a well-founded fear of being persecuted at home for reasons of race, religion, nationality, membership of a particular social group or political opinion;	13
5	12. Stop harassment of judges and of lawyers representing unpopular clients, especially criminal defendants;	10
11	13. Seek out and punish both right- and left-wing extremists who have violated the law;	3
2	14. Stop harassment of foreign residents;	15
1	15. Stop harassment of Catholic Church, Jews;	15
4	16. Stop harassment of members of the academic community;	15
16	17. Regularize police jurisdictions so that outsiders and Argentines will know where to go for help.	14

December 28, 1976



COMPARISON OF RANKINGS

Basic Requests

(1) Publish and keep up to date a list of all held in detention by security or military forces under procedures authorized by the state of siege declared November 6, 1974.

(2) Reinstitute humane and long-respected procedures, that is, regularized detention proceedings by which each person would be inscribed at the point of detention, families would be notified promptly and charges would promptly and publicly be laid.

(5) If you are holding people who have not been promptly charged, release them or, if this is preferable, permit them voluntarily to leave the country.

(7) Investigate and punish cases of torture or cruel, inhuman or degrading treatment or punishment. Such investigations should be conducted by persons unconnected with the detention process.

Overall considerations: Our goal should be to phrase each of our proposals so as to demonstrate to the GOA the utility -- from its standpoint of taking the suggested action. We want to emphasize the way in which each will strengthen the Argentine nation and respond to its critics -- without sounding patronizing.

(1) Publication of the lists. The problem of phrasing our approach on this issue is greatly reduced by the fact that the GOA already seems to be moving in the desired direction. However, while we understand they are now preparing lists of detainees, we do not know whether they intend to publish lists of all detainees or only those detained after a certain date. Under the circumstances, we would probably want to convey to the GOA our pleasure with the apparent progress which it is making toward publishing lists of detainees and add that we hope these lists will include the names of all detainees as they are detained -- an important step in our view toward regularizing the detention process.

(2) Regularization of detention procedures. Here we might argue that continued use of the military court system to prosecute subversives needlessly antagonizes potential supporters of the government's campaign against subversion and that there is no reason not to return to established legal procedures. We could point out that in most security cases the GOA seems

to have ample evidence to prosecute in open court and that in any event, under the National Security Laws, it has additional legal weapons to use against proven subversives. By prosecuting suspected subversives in military court where they have no legal guarantees, the GOA only contributes to the emotionalism which is tearing the country apart. Instead it should try to heal the wounds by returning to established legal procedures.

(3) Release or charge detainees. In this case, we should not appear to be supplying the GOA with a rigid answer to a painful problem -- detainees. Rather we should stress the existence of alternatives which the GOA could pursue that would answer its critics and contribute to the restoration of legal order in Argentina. Our basic point is that if detainees are not promptly charged, they should either be released or be permitted to seek and enjoy asylum abroad. With regard to the asylum question, we might ask the GOA to show the same style of pragmatism toward Argentine nationals as it has toward nationals of other South American countries in Argentina which have sought asylum elsewhere.

(4) Investigation of abuses. One of the arguments the GOA has used to justify its failure to prosecute human rights abuses by members of the security forces is that such action would demoralize them and greatly weaken the GOA's ability to defend

the nation against subversion. However, now that there is some consensus within the GOA that subversion is declining, the GOA must reexamine its priorities. Under the present circumstances, there is no excuse for encouraging immorality by not prosecuting official human rights violations. In other words, having now won part of its battle against subversion, the GOA must begin to correct abuses within its own camp if it is to preserve the country.

1/4/77

Farmstrong/JBuchanan: fa

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January 4, 1977

Desired Human Rights Improvements and GOA Actions in that Field

1. Publish a list of all held in detention.

30 DEC Argentine press reports that the Interior Ministry will begin to publish a weekly list of persons being held or freed by the Executive.

2. Regularize detention procedures.

3. Reestablish jurisdiction of civilian courts.

29 NOV A new law authorizing special military tribunals to try persons accused of subversive crimes goes into effect. The law extends the jurisdiction of military courts to cover lesser offenses formerly tried by civilian courts, such as intent to commit a crime against national security.

4. Give prisoners access to families and lawyers.

5. Release all detainees who are not promptly charged.

3 OCT La Opinion reports that over 300 persons under detention by the Executive have been released.

22 OCT Presidency officials inform Embassy that large numbers of those being held under State of Siege provisions are being released.

21 DEC Federal appeals court upholds the constitutional right of the government to hold people indefinitely under the State of Siege.

22 DEC Executive releases list of 541 detainees freed by the Executive since November 1.

30 DEC GOA publishes list of 123 freed detainees. Press reports that this brings the number of people released since March 24 to over 1660.

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6. Provide for public trials before civilian courts in security cases which are not clearly military.
 - 8 OCT Argentine Supreme Court has ruled that the jurisdiction of military justice system over subversion and arms control cases applies only when it is clear that the offense is actually linked to the security of the nation.
7. "Investigate and try persons guilty of abusing prisoners.
8. Invite international organizations such as ICRC and IAHRC to Argentina.
 - 15 NOV Amnesty International concludes ten day visit.
 - 7 DEC Foreign Ministry tells Embassy that ICRC is currently visiting Argentina and that OAS would be welcome.
 - 15 DEC President Videla tells President of ICRC that a program of assistance to detainees may be organized.
 - 27 DEC Embassy reports on upcoming ICFTU visit to Argentina.
9. Recognize Article 3 of Geneva Convention.
10. Permit detainees to seek asylum abroad.
 - 7 OCT Embassy reports that for the second time in five months a federal judge has ruled that the constitutional right of persons to leave the country is in force. In both cases, GOA has appealed to the Supreme Court.
 - 10 OCT Argentine Court rules that Institutional Act suspending the constitutional right to opt to leave the country is valid.
11. Ensure that foreign nationals are not repatriated against their will.
 - 22 NOV UNHCR informs Embassy that there are still 10,000 refugees wishing resettlement. There have been no attacks on refugees in recent months.

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12. Stop harassment of judges.

13. Punish both left and right wing extremists.

14 OCT Embassy reports that a significant number of policemen have been quietly punished or fired in recent weeks. According to sources, GOA is slowly but steadily working out undesirable and undisciplined elements from the police forces, including some who have been responsible for AAA type activities.

22 OCT Presidency officials report that the "central authorities" are beginning to get "wild elements" in the security forces under control.

2 NOV Army G-2 has been ordered to assure that security forces refrain from common crimes; 32 Buenos Aires police officers and two Army officials are reported under arrest.

14 DEC In interview with American journalists, President Videla acknowledges that security forces may be committing excesses but notes it is not the GOA's wish.

29 DEC USDAO reported that 14 soldiers in I Corps region have been arrested for improper conduct during countersubversive operations.

14. Stop harassment of foreign residents. (See No. 11)

15. Stop harassment of Catholic Church; Jews.

6 DEC Jewish leaders inform the Embassy that anti-Semitism is a far less serious problem than it was earlier.

30 DEC Embassy reports that according to Church sources there are no longer any priests or members of religious organizations under detention.

16. Stop harassment of academics.

3 DEC B.A. 7874 reports on unusual firing of General Vilas, the hard-line general responsible for

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purge at Bahia Blanca University.

17. Regularize police jurisdictions so that outsiders and Argentines will know where to go for help.

7 OCT Embassy reports on establishment of human rights working group in Foreign Ministry to handle all approaches on human rights from foreign governments.

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ATTACHMENT 7

January 4, 1977

List of Material and Moral Resources which might be used to try to influence human rights improvements in Argentina.

1. Argentina's desire to avoid a sense of loneliness and isolation.
2. Foreign military sales credits and grant training.
3. Multilateral assistance.
4. Access to private capital markets.
5. Export Import Bank.
6. Overseas Private Investment Corporation.
7. Catholic Church.
8. U.S. military influences; person to person relationships.
9. Burson Marsteller.
10. Private investment.
11. International organizations: UNHCR, IAHRC.
12. U.S. Congress
13. Coalition building: lawyers and judges, labor, churches, universities.
14. Exchange programs.
15. DOD/military groups; EO25x1
16. Refugee and relief efforts.
17. ICRC mission.
18. U.S. Chamber of Commerce and American Chamber in Buenos Aires.
19. Council of the Americas.
20. WOLA (Washington Office on Latin America) and its constituents.
21. International Confederation of Free Trade Unions (ICFTU).

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22. AFL/CIO.
23. Organization of American States.
24. Third countries: Venezuela, Colombia, West Germany, United Kingdom, Italy, Spain, Belgium, Netherlands, France, Japan, Israel and Canada.
25. Personnel assignments (size of Embassy).
26. Inter-American Press Association.
27. New York Times and Washington Post editorials.
28. Special envoys.
29. Embargo of commercial arms sales.
30. Economic embargo.

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